

## IV.D.2. Fast Track Dispute Resolution Program

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**Introduction** The Fast Track Dispute Resolution Program is a joint effort between LMSB and Appeals to resolve cases at the lowest level while still under the jurisdiction of LMSB. The program is designed to resolve issues/cases within a 120 day period. A pilot program began with the issuance of Public Notice 2001-76 on November 17, 2001. It is estimated that this program saves an average of two years in the Examination-Appeals combined process. Due to the success of the program, Chief Counsel is drafting a Revenue Procedure to make this program permanent. As of the writing of this ATG (September, 2002) that Revenue Procedure has not been finalized.

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**Options** The Fast Track Pilot Program offers two options: Fast Track Mediation and Fast Track Settlement.

**Fast Track Mediation:** An Appeals Officer (or Appeals Team Case Leader) trained in mediation seeks to facilitate communication and to resolve factual issues. This mediator does NOT exercise settlement authority and will NOT render a decision. (During the pilot phase, no cases have requested the Mediation Option and the permanent program will offer only the Settlement Option.)

**Fast Track Settlement:** Under this option, the parties can reach a resolution through the use of Appeals' delegated settlement authority. This option allows the parties to consider hazards of litigation. Neither the taxpayer nor LMSB are required to accept the settlement. Either one may withdraw from the process at any time by notifying the other party and Appeals in writing. If a settlement is reached, LMSB will do the tax computation and Appeals will prepare a 906 Closing Agreement. Cases subject to Joint Committee Review will be submitted to Joint Committee prior to the execution of the closing agreement on behalf of the Service.

Chief Counsel has advised that the ex parte provisions of RRA '98 will generally not apply to the Fast Track process, although under certain circumstances the Appeals Officer may ask the taxpayer to waive the ex parte provisions. However, if a settlement is not reached, the taxpayer still maintains all appeal rights and whenever possible the case will be assigned to a different Appeals Officer (one who has not been involved in the Fast Track process) when it is forwarded to traditional Appeals.

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## IV.D.2. Fast Track Dispute Resolution Program, Continued

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### **When to Recommend Case For the Fast Track Program**

Before you recommend a case as a candidate for the Fast Track Program, the following events must have occurred:

1. The issues have been fully developed and a Form 5701 (Notice of Proposed Adjustment) has been issued
  2. LMSB and the taxpayer have exhausted all existing issue resolution strategies
  3. The taxpayer has stated his/her position in writing
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### **Which Cases to Recommend**

The following types of cases may be recommended for the Program.

1. Cases that have at least one open year under examination and at least one disputed issue
  2. Cases that have a limited number of unagreed issues
  3. Pre-30 Day Letter cases
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### **Cases not Eligible for the Program**

The following types of cases or issues are not eligible for the Fast Track Program.

1. Docketed issues (i.e. – prior year in docketed status with the same issue)
  2. Issues designated for litigation
  3. Cases where TP has filed request for competent authority
  4. Constitutional issues
  5. Issues outside of LMSB jurisdiction (e.g. Collection)
  6. Issues outside of Appeals' jurisdiction (e.g. application of certain international penalty provisions)
  7. Whip Saw issues
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## IV.D.2. Fast Track Dispute Resolution Program, Continued

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### **How to Recommend a Case for the Program**

If you have a case which you feel is eligible for the program, you should contact the Appeals Fast Tract Program Manager, J.W. Wyatt at 314-612-4635 ([J.W.Wyatt@irs.gov](mailto:J.W.Wyatt@irs.gov)), or the LMSB Fast Track Program Manager, Jim Fike at 202-283-8353 ([James.O.Fike@irs.gov](mailto:James.O.Fike@irs.gov)). They can discuss your case with you and tell you if they feel it is ready to be submitted for Fast Track. J.W. can also tell you which Appeals office to submit the paper work to.

Your team manager must complete the LMSB Fast Track Agreement form (Exhibit 1), attach the F5701 and the taxpayer's written response and send it to the appropriate Appeals office. A copy of the application package is also sent to the LMSB Fast Track Program Manager – Jim Fike. You can download the form by going to:

[http://lmsb.irs.gov/hq/pftg/downloads/Fast%20Track/agreement\\_form\\_electronic.dot](http://lmsb.irs.gov/hq/pftg/downloads/Fast%20Track/agreement_form_electronic.dot)

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### **Tax Shelters and the Fast Track Program**

Many tax shelter cases have been admitted into the Fast Track Program and it has worked successfully. However, at the current time, there are discussions going on as to how to modify the program to better suit the needs of the tax shelter type cases. You are strongly urged to contact the Technical Advisor assigned to your transaction before recommending a case for the program. At the present time, no IRC § 351, Contingent Liability cases may be accepted.

For complete details and updates on the Fast Track Resolution Program, you can go to:

<http://lmsb.irs.gov/hq/pftg/downloads/Fast%20Track/FastTrack.htm>

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# LMSB Fast Track Agreement

To: Local Appeals Office \_\_\_\_\_ Date \_\_\_\_\_

This Case is an  Industry (FE), or a  Coordinated Industry case (CE) (please check one)

Estimated Fast Track End Date \_\_\_\_\_ Preferred Conference Site \_\_\_\_\_

## Taxpayer:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Taxpayer EIN \_\_\_\_\_ Tax Years Involved \_\_\_\_\_

Corporate Officer: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

## Compliance:

LMSB Team Manager Name: \_\_\_\_\_ Group \_\_\_\_\_

Address \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

Industry:  NR;  HMT;  RFPH;  CTM;  FS

MFT Code \_\_\_\_\_ Type of Tax \_\_\_\_\_

## Name of Representative

Taxpayer's Representative (if applicable): \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone #: (\_\_\_\_) \_\_\_\_\_ Fax #: (\_\_\_\_) \_\_\_\_\_

## SIGNATURES

The undersigned request Appeals assistance in the LMSB Fast Track process as described in Notice 2001-67. The issues for which this assistance is requested are described in the Form(s) 5701 and Taxpayer's written response thereto attached to this agreement.

\_\_\_\_\_  
Taxpayer

\_\_\_\_\_  
Date

\_\_\_\_\_  
LMSB Team Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Date

*Comments and Other Participants (attach additional sheets as necessary)*

**Name**

**Position or Affiliation**

**Phone**

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**Accepted by Appeals Team Manager**     Yes  No    **By** \_\_\_\_\_  
**Date** \_\_\_\_\_

**Program Managers Approval:**

**LMSB James Fike**     Yes  No    **Date** \_\_\_\_\_

**(202) 283-8353**    \_\_\_\_\_

**Appeals J. W. Wyatt**     Yes  No    **Date** \_\_\_\_\_

**(314) 612-4639**